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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,767	11/17/2003	Eugene A. Mensah	P-11092.00	2423

27581 7590 04/20/2007
MEDTRONIC, INC.
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EXAMINER

ISABELLA, DAVID J

ART UNIT	PAPER NUMBER
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3738

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/714,767

Applicant(s)

MENSAH ET AL.

Examiner

DAVID J. ISABELLA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 4,7-19,21,23-25,27-41 and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,20,22,26,42 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/31/06;2/9/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Election/Restrictions

Claims 4,7-19,21,23-25,27-41 and 44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/1/2006.

Applicant elected the annuloplasty ring with coated filaments and the filaments being intrinsically formed of the conductive polymer. Examiner has attempted to reach the attorney of record for clarification between the species of group 2 and group 3. Upon review of the specification, it appears that the elected embodiment of group 3, i.e. b) filaments of fabric are of integrally formed intrinsically conductive polymer is not covered under group 2, i.e. polymer layer on fabric (polymer coating over individual filaments of the fabric). According to the specification, the filament are intrinsically formed of conductive polymer and does not have a polymer coating over the individual filaments. As such, examiner will examine the species of a annuloplasty ring comprising filaments of fabric are of integrally formed intrinsically conductive polymer. Accordingly, the claims that are readable on the elected species include claims 1-3,5,6,20,22,26,42 and 43.

Applicant's election with traverse of annuloplasty ring with the filaments being intrinsically formed of the conductive polymer in the reply filed on 5/1/2006 is acknowledged. The traversal is on the ground(s) that such requirements are optional in all cases. MPEP § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though

it arguably may include claims to distinct or independent inventions. MPEP § 803. It is respectfully submitted the search and examination of the presently pending claims can be made without serious burden on the Office.

This is not found persuasive because while the searches may overlap, there are searches that would not be inclusive all species. As such, the area for increase searches would be larger than for one elected species and would place a serious time and review burden on the Office.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,5,6,20,22,26,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woo et al [6761736] in view of Carpentier et al [4055861] and Kinlen et al [6228492] or Kuhn et al [4775317].

Woo et al discloses fabricating annuloplasty ring from conductive polymers including polypyrrole (see column 8, lines 40+). Woo et al is not specific as to structural arrangement of subelements of the annuloplasty ring. Carpentier et al teaches two forms of annuloplasty ring similar to that as illustrated by applicant.

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To fabricate the annuloplasty ring of Woo et al in the likeness of Carpentier et al using the subelements and configuration as illustrated by Carpentier et al would have been obvious to one with ordinary skill in the art based upon design and engineering considerations. Kinlen et al and Kuhn et al teach the formation of filaments of fabric are of integrally formed intrinsically conductive polymer.

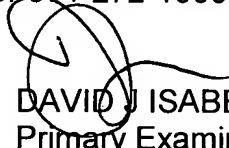
The limitations as set forth in dependent claims 2,3,5,20,22,26,42 and 43 do not distinguish over the device of Woo et al as modified by the secondary references.

Claim 6, see conductivity range as taught by Kuhn et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID J ISABELLA
Primary Examiner
Art Unit 3738

DJI
4/11/2007